

STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION
LABOR RELATIONS DIVISION

In the Matter of:

MERIDIAN CHARTER TOWNSHIP,
Public Employer,

Case No. UC01 L-041

-and-

TEAMSTERS LOCAL 214,
Union-Petitioner.

APPEARANCES:

Hubbard, Fox, Thomas, White & Bengston, P.C., by Geoffrey H. Seidlein, Esq., for the Employer

Pinsky, Smith, Fayette & Hulswit, L.L.P., by Katherine Smith Kennedy, Esq., for the Petitioner

DECISION AND ORDER ON PETITION FOR UNIT CLARIFICATION

Pursuant to Section 12 of the Public Employment Relations Act (PERA), 1965 PA 379, as amended, MCL 423.212; MSA 17.455(12), this case was heard in Detroit, Michigan, on September 18, 2002, by Roy L. Roulhac, Administrative Law Judge for the Michigan Employment Relations Commission. Based on the record, including briefs filed by the parties on or before November 18, 2002, the Commission finds as follows:

The Petition and Issue:

Teamsters State, County and Municipal Workers, Local 214 filed a unit clarification petition on December 18, 2001. Petitioner represents a bargaining unit of all supervisory employees of Meridian Charter Township and seeks to include in its bargaining unit the newly created positions of mechanic lead worker; building and grounds group leader; water group leader; and sewer group leader. The Union alleges that these positions were incorrectly placed in a unit of non-supervisory employees represented by the American Federation of State County and Municipal Employees Council 25 and its affiliate, Local 1390 (AFSCME).¹

¹AFSCME was notified of the hearing, but did not participate in these proceedings.

Findings of Fact:

In 1998, Petitioner became the bargaining agent for supervisory employees in the Township's Public Works Department. The bargaining unit is described in Article 33, Schedule "A" of the parties collective bargaining agreement as follows: assistant public works director, supervisors, cemetery superintendent and Towar Center director. The supervisors referred to in the unit description included the following classifications: building maintenance supervisor, grounds maintenance supervisor, water system supervisor, and sewer system supervisor. They reported to the assistant director of public works and had the authority to recommend discipline, up to and including an employee's discharge; orally counsel employees; perform yearly evaluations; and schedule work assignments of utility workers under their supervision. The cemetery sexton also reported to the grounds maintenance supervisor. These supervisors were responsible for the work of twenty-five employees.

After the grounds maintenance supervisor retired, the grounds maintenance and building maintenance positions were combined and the cemetery sexton began reporting directly to the assistant director of public works.

On November 31, 2001, the Employer and AFSCME executed a Memorandum of Understanding that reads in pertinent part as follows:

The Employer desires to create Lead Workers and a Lead Mechanic position(s) to supervise and perform work with crews involved in the Public Works Division of the Department of Engineering/Public Works. This is part of the Public Works Division reorganization plan as proposed by the Employer to be implemented in December 2001.

The Collective Bargaining Agreement does not expressly address the creation and selection of the Lead Worker and Lead Mechanic position(s) and this Memorandum of Understanding will set forth the creation, selection, wages, and other revisions to the labor agreement to carryout the reorganization plan.

In December 2001, the Employer reorganized its Department of Public Works. The assistant director of public works position was separated into two positions - water and sewer superintendent and facilities superintendent. The Employer also created the following positions: mechanic lead worker; buildings and grounds group leader; water group leader; and sewer group leader. The water and sewer group leaders report to the water and sewer superintendent; and the buildings and grounds group leader, the mechanic lead worker, and the cemetery sexton report to the facilities superintendent. (Hereinafter, all four of the positions at issue will be referred to as "lead worker.") The Employer placed the newly created lead worker positions in AFSCME's non-supervisory bargaining unit. The Employer eliminated the positions of buildings and grounds maintenance supervisor, water systems supervisor, and sewer system supervisor.

The lead workers' job description states that: "Work is performed with independence in accomplishing assigned tasks, under the general direction of a Superintendent who reviews

work by making work site visits and analyzing job reports.” Each lead worker receives instructions from the superintendent regarding daily work needs. The lead workers serve as intermediaries and relay the superintendent’s instructions to field utility workers. The lead workers work with the utility workers in the field, ensure that the work is performed correctly, and maintain records and inventory. Lead workers have no authority to discipline the utility workers. If a lead worker is having a problem with a utility worker, the lead worker brings the matter to the superintendent’s attention and the superintendent decides if disciplinary action is warranted. Lead workers have no authority to lay off, hire, fire or conduct performance evaluations.

Discussion and Conclusions of Law:

Petitioner highlights the responsibilities of the current lead workers to show that the lead workers have supervisory tasks. It argues that the newly created lead worker positions have the same duties as the four previous supervisory positions. Therefore, it contends that the newly created positions are improperly placed in AFSCME’s non-supervisory unit. The Employer contends that as a result of the reorganization, there was a redefinition and a substantial change in duties of the employees at issue and the employees are no longer supervisors.

A supervisor is one who possesses authority to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, discipline other employees or to effectively recommend such action, as long as this authority requires the use of independent judgment and is not merely routine. *City of Holland*, 2002 MERC Lab Op 40; *Village of Paw Paw*, 2000 MERC Lab Op 370. Accordingly, the Commission has held that to qualify as a supervisor under PERA, an individual’s responsibilities must involve the use of independent judgment, including effective authority in personnel matters, with the power to evaluate employees and recommend discipline. See *Bloomfield Hills School District*, 2000 MERC Lab Op 363, 365; *City of Detroit, Department of Public Works*, 1999 MERC Lab Op 283, 287-288.

We find that the lead workers in this case lack true supervisory authority. They oversee the work of utility workers and/or mechanics and act as intermediaries between the superintendent and the utility workers in the field. They lack authority to evaluate utility workers or effectively recommend discipline. Rather, if a lead worker is having a problem with a utility worker, the lead worker merely brings the matter to the attention of the superintendent who then decides whether disciplinary action is warranted. Lead workers have no authority to lay off, hire, or fire utility workers. An employee who possesses only routine responsibility to direct or assign work, but has no other indicia of supervisory authority, is not a supervisor under our definition. *Huron County Medical Care Facility*, 1998 MERC Lab Op 137, 146 (1998). We have carefully considered all other arguments raised by Petitioner and they do not warrant a change in the result.

In accordance with the above findings of fact and conclusions of law, we find that the lead workers are not supervisors within the meaning of PERA and are appropriately included in AFSCME’s non-supervisory bargaining unit.

ORDER

For the reasons set forth above, the petition to clarify Petitioner's bargaining unit to include the newly created mechanic lead worker, buildings and grounds group leader, water group leader and sewer group leader is hereby denied.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

Nora Lynch, Commission Chairman

Harry Bishop, Commission Member

Maris Stella Swift, Commission Member

Dated: _____